

CASE NO. 08-C-97

OPENED 3/12/2008

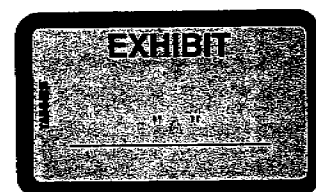
JUDGE... GINA GROH

PLAINTIFF. ERIC INSURANCE PROPERTY & CASUALTY CO. SERGE OF DAVID BODKIN
VS DEFENDANT. DONALD JENKINS

PRO ATTY... LUCIEN G. LEWIN
DEF ATTY...

PAGE# DATE MEMORANDUM.....

00001 3/12/08 case info sht,rcpt,cvt ltr
00002 3/12/08 complt
00003 3/12/08 smms & complt mld to sec of state & press d.jenkins
00004 3/12/08 smms & complt retrnd to attny & privt press d.jenkins
00005 3/19/08 rcpt 76661 \$2.50 c.schelle 4 copies
00006 4/02/08 legal nrc frm sec state; rtn smms for d.jenkins; rtn cert...
00007 4/02/08 .ml card for d.jenkins shgd j.jenkins 3/25/08
00008 4/17/08 case info,answr frm dfndt d.jenkins,cos r.rossi



CERTIFICATION OF CIRCUIT CLERK
STATE OF WEST VIRGINIA, COUNTY OF JEFFERSON

Clerk's Office of the Circuit Court
Of Jefferson County,
At Charles Town, in said State,

I, **PATRICIA A. NOLAND**, Clerk of said Court, having by law the custody of the seal, and all papers, books, documents and papers of or pertaining to said court, hereby certify the paper hereto annexed to be a true copy appertaining to said Court, and on file and of record in said office, to-wit:

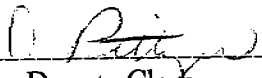
CIVIL CASE NUMBER 08-C-97

IN THE MATTER OF ERIE INSURANCE PROPERTY & CASUALTY CO., AS SUBROGEE OF
DAVID BODKIN, PLAINTIFF VS: DONALD JENKINS DEFENDANT

COPY OF THE ENTIRE RECORD

In attestation whereof I have
hereunto set my hand and affixed
the seal of said Court this April 18, 2008.

PATRICIA A. NOLAND, Clerk

By: 
Deputy Clerk

**CIVIL CASE INFORMATION STATEMENT
CIVIL CASES****RECEIVED
MAR 12 2008**In the Circuit Court, Jefferson County, West Virginia**JEFFERSON COUNTY
CIRCUIT COURT****I CASE STYLE****Plaintiff**Erie Insurance Property & Casualty Company, as subrogee of David Bodkin100 Erie Insurance PlErie, PA 16530

vs.

DefendantDonald Jenkins108 Ash Hollow Dr

Street

Winchester, VA 22602-6133

City, State, Zip

Case # 08-C-97Judge [Signature]**Days to
Answer**30**Type of Service**Security of State and
Private Process, Return to
Attorney

smms' complt mld to Sec of State
D. Jenkins 3/12/2008 so
smms' complt retrnd to attny for
private press D. Jenkins 3/12/2008

Original and 3 copies of complaint furnished herewith

PLAINTIFF Erie Insurance Property & Casualty Company, as subrogee of David Bodkin DEFENDANT Donald Jenkins	CASE NUMBER 08-C-97
---	-------------------------------

II TYPE OF CASE

TORTS	OTHER	CIVIL
<input type="checkbox"/> Asbestos	<input type="checkbox"/> Adoption	<input type="checkbox"/> Appeal from Magistrate Court
<input type="checkbox"/> Professional Malpractice	<input type="checkbox"/> Contract	<input type="checkbox"/> Petition for Modification of Magistrate Sentence
<input type="checkbox"/> Personal Injury	<input type="checkbox"/> Real Property	<input type="checkbox"/> Miscellaneous Civil
<input type="checkbox"/> Product Liability	<input type="checkbox"/> Mental Health	<input type="checkbox"/> Other
<input checked="" type="checkbox"/> Other Tort	<input type="checkbox"/> Appeal of Administrative Agency	

III JURY DEMAND ☒ Yes ☐ No

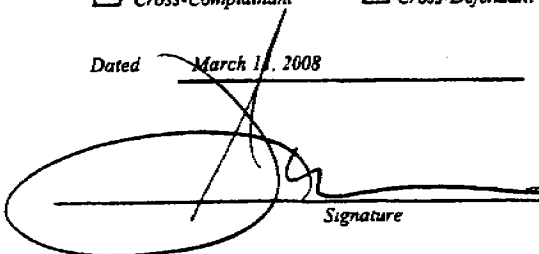
CASE WILL BE READY FOR TRIAL BY (Month/Year) March / 2008

IV DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE? ☐ Yes ☒ No

- ☐ Wheelchair accessible hearing room and other facilities
- ☐ Interpreter or other auxiliary aid for the hearing impaired
- ☐ Reader or other auxiliary aid for the visually impaired
- ☐ Spokesperson or other auxiliary aid for the speech impaired
- ☐ Other _____

Attorney Name Lucien G. Lewis (WV #2195)
Firm Stephoe & Johnson PLLC
Address Stephoe & Johnson PLLC
P O Box 2629
Martinsburg, WV 25402-2629
Telephone (304) 263-6991

Representing
☒ Plaintiff ☐ Defendant
☐ Cross-Complainant ☐ Cross-Defendant
Dated March 11, 2008



 Signature

☐ Pro Se

4010B FIA - CIVIL - \$60-DIV

March 13, 2008

Received by STEPTOE J JOHNSON

\$150.00

The exact sum of One Hundred Fifty Dollars and no Cents

Plaintiff: ERIC INSURANCE PROPERTY & CASUALTY CO. SARGE OF DAVID BOON IN
 Defendant: DONALD JENKINS

Payment type: Check Check# 1887

Case number: 06-C-97

Transaction conducted at:

PATRICIA NOLAND, CIRCUIT CLERK

JEFFERSON COUNTY
 CHARLES TOWN WV 25414

Deputy

DISTRIBUTION OF FUNDS...

1005 POSTAGE	5.00	1001 CLERKS FEES - OTHER	30.00
4008 BIA - CIVIL - \$60-DIV	60.00	4008 BIF - CIVIL - \$50	5.00
4015 CIVIL LEGAL SERVI	10.00	4017 BIA - \$25-BOND: \$10-	30.00
4018 BTO PARTIAL REIMBURSE	20.00		



1250 Edwin Miller Boulevard, Suite 300
PO Box 2629
Martinsburg, WV 25402-2629
(304) 263-6991 (304) 262-3541 Fax
www.steptoe-johnson.com

Writer's Contract Information
(304) 262-3528
Lucien Lewin@steptoe-johnson.com

March 11, 2008

RECEIVED
MAR 12 2008
JEFFERSON COUNTY
CIRCUIT COURT

Ms. Patricia Noland, Clerk
Jefferson County Circuit Court
110 North George Street
P.O. Box 1234
Charles Town, WV 25414

Re: Erie Insurance Property & Casualty Company,
as subrogee of David Bodkin v. Jenkins
Civil Action No. 08-C-
Circuit Court of Jefferson County, West Virginia

Dear Ms. Noland:

Please find enclosed for filing the Civil Case Information Statement, Summons, and Complaint together with a check in the amount of \$150.00 for \$145.00 filing fee and \$5.00 for service upon Secretary of State, and a check to the Secretary of State in the amount of \$20.00 for service upon the Secretary of State. Please return to me a copy of the summons and complaint for individual service.

Very truly yours,

A handwritten signature in black ink, appearing to be 'Lucien G. Lewin', written over a horizontal line.

Lucien G. Lewin

LGL/sab
Enclosures:
Civil Case Information Statement- Original +1
Complaint- Original +3
Summons- Original +6

265310 00510

MA4861083 1

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, as subrogee of
DAVID BODKIN,

Plaintiff,

RECEIVED

MAR 12 2008

JEFFERSON COUNTY
CIRCUIT COURT

v.

CIVIL ACTION NO. 08-C-97

DONALD JENKINS,
108 Ash Hollow Dr., Winchester, Va 22602-6133,

Defendant.

COMPLAINT

For the Complaint, the Plaintiff states as follows:

PARTIES

1. The Plaintiff, Erie Insurance Property and Casualty Company ("Erie"), is a corporation organized under the laws of Pennsylvania and conducting and authorized to conduct business in the State of West Virginia.

2. The Defendant, Donald Jenkins, upon information and belief, resides at 108 Ash Hollow Dr., Winchester, Va 22602-6133,.

JURISDICTION

3. This is a civil action seeking damages in excess of three hundred dollars and this Court has jurisdiction pursuant to W. Va. Code § 51-2-2. Defendant is subject to long arm jurisdiction under W. Va. Code §51-3-3 as a result of transacting business in this state, causing tortious injury by an action or omission in this state and otherwise as set forth in such statute and this Complaint.

VENUE

4. Since the cause of action arose in Jefferson County and the insured property at interest in this case is located in Jefferson County, West Virginia, this Court has venue over this civil action pursuant to W.Va. Code § 56-1-1(a)(1) and (5).

FACTS

5. The defendant, Donald Jenkins at all relevant times herein operated a business as an electrical contractor and lives and resides in Winchester, however, he conducted the business of electrical contracting in Jefferson County, West Virginia and caused injury at said location.

6. David Bodkin is the owner of property located at 2268 Berryville Pike, Rippon, Jefferson County, West Virginia ("Bodkin residence") and David Bodkin was insured by the plaintiff, Erie Insurance Property and Casualty Company at all relevant times herein.

7. During the year 2005 and year 2006, David Bodkin contracted with Donald Jenkins to install new wiring and to repair old wiring at the Bodkin residence and pursuant to such contract, Donald Jenkins performed electrical wiring work at the Bodkin residence above described.

8. A fire originated between the ceiling of the first floor and floor of the second floor in the air ventilation area on March 17, 2006 which caused extensive property damage to the Bodkin residence.

9. After the fire of March 17, 2006 during inspections of the property conducted later in 2006 at the site it was discovered that negligent, unsafe and unworkmanlike work

and repairs made by Donald Jenkins for David Bodkin to wires in a ventilation area caused combustion and the fire which damaged the Bodkin residence.

COUNT I BREACH OF CONTRACT

9. Donald Jenkins pursuant to his contract with David Bodkin had a duty to perform his work in a safe, good and workman like manner.

10. Donald Jenkins breached his duty to perform his work in a safe, good and workman like manner causing the loss and damages all of which was reasonably foreseeable.

11. That Donald Jenkins is liable to David Bodkin and his subrogee, Erie, for such breach of contract.

COUNT II NEGLIGENCE

12. David Bodkin had a duty to perform the work at the Bodkin residence using reasonable care and in a safe and workman like manner.

13. The repairs and work were not performed in a careful, safe and workmanlike manner and according to proper electrical standards and Donald Jenkins breached his duty to perform his work in a careful, safe and workman like manner and his negligent, careless, unsafe and unworkmanlike work and performance resulted in and caused damage to the Bodkin residence.

14. Further, Donald Jenkins performed work in a negligent, unsafe and unworkmanlike manner in respect to his wiring installation and repairs and violated electrical standards and practices in many ways including but not limited to the following:

- a. improper wiring splicing and connection methods;

- b. wire nut splices without an approved junction box;
- c. unsecured nob and tube wiring left unsecured and unprotected;
- d. lack of proper insulating, securing, supporting and separation from combustible materials;
- e. violation of National Fire Protection Code (NFPA 70) including but not limited to Articles 90(A), 90(B), 110.8, 110.12, 110.14, 300.4, 300.4(D), 300.15, 300.16(A), 334.12(B) and 334.30.

15. As a result of the negligent, unworkmanlike and unsafe repairs in violation of existing standards, practices and codes made by Defendant, Donald Jenkins a fire resulted causing damage and losses of March 17, 2006 ensuing thereafter including but not limited to property damage, loss of income and loss of use of the residence.

COUNT III SUBROGATION

16. The fire at the Bodkin residence caused fire, water, and smoke damage to the Bodkin residence, and as a result of this damage, Erie Insurance Property and Casualty Company has paid its insured under the terms of the insurance policy.

17. Erie Insurance Property and Casualty Company, pursuant to their insurance contract with David Bodkin and as the insurer of the property located at 2268 Berryville Pike, Rippon, Jefferson County, West Virginia has made its insured, David Bodkin, whole by issuing the insured checks in the amounts of One Hundred and Seven Five Hundred Fifty-Three and 89/100 Dollars (\$107, 553.89) Dollars for the property damage caused by the said fire and to have the said property repaired or replaced and Seven Thousand and 00/100 Dollars (\$7000.00) to compensate David Bodkin for loss of use and rents resulting

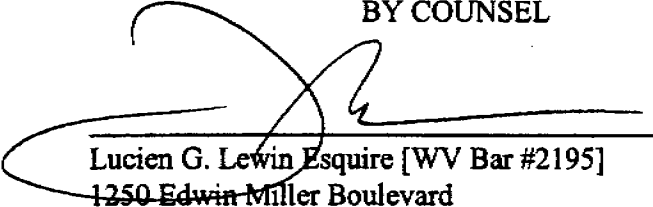
from the fire which caused damage to the Bodkin residence which rendered the residence uninhabitable for a periods of time after the fire.

18. Erie Insurance Property and Casualty Company, having acquired subrogation rights against the defendant, demands full restitution for the amount of insurance paid to the insured on the ground that the direct and proximate result of the property damage caused by fire at the Bodkin residence was due to the negligent, unsafe and unworkmanlike conduct on the part of the defendant, Donald Jenkins.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff, having been subrogated to the rights of the insured against the defendant, demands judgment in the amount of One Hundred Fourteen Thousand Five Hundred Fifty-three and 89/100ths Dollars (\$114,553.89), plus attorneys' fees, costs, pre- and post-judgement interest, this sum being the amount to which Erie Insurance Property and Casualty Company is entitled. The plaintiff further demands a trial by jury.

ERIE INSURANCE PROPERTY AND
CASUALTY COMPANY
BY COUNSEL



Lucien G. Lewin Esquire [WV Bar #2195]
1250 Edwin Miller Boulevard
Post Office Box 2629
Martinsburg, West Virginia 25402
Phone: (304) 262-3528

STEPTOE & JOHNSON
Martinsburg, West Virginia
Of Counsel

SUMMONS**CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA**

**ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, as subrogee of
DAVID BODKIN,**

Plaintiff,

v.

Civil Action No. 08-C-97

**DONALD JENKINS,
108 Ash Hollow Dr., Winchester, VA 22602-6133**

Defendant.

**To the above named Defendant: 108 Ash Hollow Dr.
Winchester, VA 22602-6133**

IN THE NAME OF THE STATE OF WEST VIRGINIA:

You are hereby summoned and required to serve upon Lucien G. Lewin, Plaintiff's Attorney, whose address is Stephoe & Johnson, P.O. Box 2629 Martinsburg, WV 25402 an answer, including any related counter claim or defense you may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, thereafter judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: March 12, 2008

Patricia A. Noland
Patricia Noland, Clerk of the Court

By: [Signature]
DEPUTY CLERK

File
summons & compl
mtd to Sec of St.
press
D. Jenkins
2/12/2008 BR

SUMMONS**CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA**

**ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, as subrogee of
DAVID BODKIN,**

Plaintiff,

v.

Civil Action No. 08-C-97

**DONALD JENKINS,
108 Ash Hollow Dr., Winchester, VA 22602-6133**

Defendant.

**To the above named Defendant: 108 Ash Hollow Dr.
Winchester, VA 22602-6133**

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Dated: March 12, 2008

Patricia A. Noland
Patricia Noland, Clerk of the Court

By: [Signature]
Deputy Clerk

File
summs
complt
retnd to
att for p
press
D. Jenkins
3/12/2008

March 18, 2008 Jefferson County

March 18, 2008

\$2.50

CRYSTAL SCHELLE

Fee is act sum of Two Dollars and 50 Cents

For..... CRYSTAL SCHELLE - CT

Payment type: CASH

Case number.: 08-1-07

Plaintiff.... ERIC INSURANCE PROPERTY & CASUALTY CO. SERGE OF DAVID BODKIN

Defendant.... DONALD JENKINS

Transaction conducted at:
JEFFERSON COUNTY COURTHOUSE
CHARLES TOWN WV 25414

PATRICIA NOLAND, CIRCUIT CLERK

Deputy JKDistribution to Accounts...
1002 COPIES

2.50

April 2, 2008 Jefferson County

OFFICE OF THE SECRETARY OF STATE
STATE OF WEST VIRGINIABetty Ireland
Secretary of State

RECEIVED

APR - 2 2008

JEFFERSON COUNTY
CIRCUIT COURTBuilding 1, Suite 157-K
1900 Kanawha Blvd., East
Charleston, West Virginia 25305
Telephone: 304-558-6000
Toll Free: 866-SOS-VOTE
www.wvsos.com

LEGAL NOTICE

Patricia Noland, Circuit Clerk
Jefferson County Courthouse
PO Box 1234
Charles Town, WV 25414-1072

March 28, 2008

Civil Action: 08-C-97

I am enclosing:

<input type="checkbox"/> summons	<input checked="" type="checkbox"/> original
<input type="checkbox"/> notice	<input type="checkbox"/> affidavit
<input type="checkbox"/> order	<input type="checkbox"/> answer
<input type="checkbox"/> petition	<input type="checkbox"/> cross-claim
<input type="checkbox"/> motion	<input type="checkbox"/> counterclaim
<input type="checkbox"/> interrogatories	<input type="checkbox"/> request
<input type="checkbox"/> suggestions	<input checked="" type="checkbox"/> certified return receipt
<input type="checkbox"/> subpoena duces tecum	<input type="checkbox"/> request for production
<input type="checkbox"/> summons and complaint	<input type="checkbox"/> request for admissions
<input type="checkbox"/> summons returned from post office	<input type="checkbox"/> no return from post office
<input type="checkbox"/> summons and amended complaint	<input type="checkbox"/> notice of mechanic's lien
<input type="checkbox"/> 3rd party summons and complaint	<input type="checkbox"/> suggestee execution

which was served on the Secretary at the State Capitol in her capacity as your statutory attorney-in-fact. According to law, I have accepted service of process in the name and on behalf of Donald Jenkins.

Please note that this office has no connection whatsoever with the enclosed documents other than to accept service of process in your name and on your behalf as your attorney-in-fact. Please address any questions about these documents directly to the court or to the plaintiff's attorney, shown in the enclosed paper. Please do not call the Secretary of State's office.

Sincerely,

A handwritten signature in cursive script that reads "Penney Barker".

Penney Barker, Manager
Business & Licensing Division

April 2, 2008, Jefferson County

RETURN

SUMMONS

CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, as subrogee of
DAVID BODKIN,

Plaintiff,

v.

DONALD JENKINS,
108 Ash Hollow Dr., Winchester, VA 22602-6133

Defendant.

To the above named Defendant: 108 Ash Hollow Dr.
Winchester, VA 22602-6133

IN THE NAME OF THE STATE OF WEST VIRGINIA:

You are hereby summoned and required to serve upon Lucien G. Lewin, Plaintiff's Attorney, whose address is Stephoe & Johnson, P.O. Box 2629 Martinsburg, WV 25402 an answer, including any related counter claim or defense you may have, to the complaint filed against you in the above styled civil action, a true copy of which is herewith delivered to you. You are required to serve your answer within 30 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, thereafter judgment by default will be taken against you for the relief demanded in the complaint and you will be thereafter barred from asserting in another action any claim you may have which must be asserted by counterclaim in the above styled civil action.

Dated: March 12, 2008

Patricia A. Noland
Patricia Noland, Clerk of the Court

By: [Signature]

April 2, 2008 • Jefferson County

WV Secretary of State

Receipt #: 732029
Station ID: N01

List Of Services

sp s s donald jenkins \$20.00


Total: \$20.00

Payment Details:

stepoe & johnson \$20.00
k 10877

Original Transaction Date: 03/16/2008

Thank You For Your Business!

2 Article Number		A Received by (Please Print Clearly)		B. Date of Delivery	
 7160 3901 9845 5842 3768				3-25	
3 Service Type CERTIFIED MAIL		C Signature		<input type="checkbox"/> Agent <input checked="" type="checkbox"/> Addressee	
4 Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes		X <i>Donal Jenkins</i>		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
1. Article Addressed to		D Is delivery address different from item 1? (If YES, enter delivery address below)			
08-C-97					
Donald Jenkins					
108 Ash Hollow Drive					
Winchester, VA 22602-6133					
PS Form 3811, January 2005		Domestic Return Receipt			

CASE INFORMATION STATEMENT
CIVIL CASES
(Other than Domestic Relations)

In the Circuit Court of Jefferson County, West Virginia

RECEIVED

APR 17 2008

JEFFERSON COUNTY
CIRCUIT COURT

I. CASE STYLE:

Plaintiff(s)

Case #

08-C-97

ERIE INSURANCE PROPERTY &

Judge

CASUALTY COMPANY, as subrogee of

DAVID BODKIN

vs.

Days to

Defendant(s)

Answer

Type of Service

DONALD JENKINS

Street

City, State, Zip

Original Answer to Complaint furnished herewith.

April 17, 2008 Jefferson County

PLAINTIFF: Erie Insurance Property & Casualty
Company, as subrogee of David Bodkin
DEFENDANT: Donald Jenkins

CASE NUMBER: 08-C-97

II. TYPE OF CASE:☒ General Civil☐ Adoption☐ Mass Litigation☐ Administrative Agency Appeal

(As defined in T.C.R. Rule XIX(c))

☐ Civil Appeal from Magistrate Court☐ Asbestos☐ Miscellaneous Civil Petition☐ Carpal Tunnel Syndrome☐ Diet Drugs☐ Environmental☐ Mental Hygiene☐ Industrial Hearing Loss☐ Silicone Implants☐ Guardianship☐ Other: _____☐ Medical Malpractice☐ Habeas Corpus/Other Extraordinary Writ☐ Other: _____**III. JURY DEMAND:** ☒ Yes ☐ NoCASE WILL BE READY FOR TRIAL BY (MONTH/YEAR) 4/09**IV. DO YOU OR ANY OF YOUR CLIENTS OR WITNESSES IN THIS CASE REQUIRE SPECIAL ACCOMMODATIONS DUE TO A DISABILITY OR AGE?** ☐ YES ☒ NO☐ Wheelchair accessible hearing room and other facilities☐ Interpreter or other auxiliary aid for the hearing impaired☐ Reader or other auxiliary aid for the visually impaired☐ Spokesperson or other auxiliary aid for the speech impaired☐ Other: _____Attorney Name: Ronald S. Rossi

Representing:

Firm: Martin & Seibert, L.C.☐ Plaintiff ☒ DefendantAddress: 1453 Winchester Ave., Martinsburg, WV 25405☐ Cross-Complainant ☐ Cross-DefendantTelephone: 304-262-3289Dated: April 17, 2008


 Signature
☐ Proceeding Without an Attorney

April 17, 2008 Jefferson County

IN THE CIRCUIT COURT OF JEFFERSON COUNTY, WEST VIRGINIA

**ERIE INSURANCE PROPERTY
& CASUALTY COMPANY, as subrogee of
DAVID BODKIN,**

Plaintiff,

v.

CIVIL ACTION NO. 08-C-97

DONALD JENKINS,

Defendant.

ANSWER TO PLAINTIFF'S COMPLAINT

COMES NOW, Donald Jenkins, by and through his counsel, Martin & Seibert,
L.C., and as his answer to the Plaintiff's Complaint, does state as follows:

FIRST DEFENSE

1. The Defendant admits the statements and allegations contained in
Paragraph 1 of the Plaintiff's Complaint.

2. The Defendant admits the statements and allegations contained in
Paragraph 2 of the Plaintiff's Complaint.

3. Paragraph 3 of the Plaintiff's Complaint sets forth a legal conclusion to
which no responsive pleading is required. However, to the extent a response is or may be
deemed required, the Defendant denies the statements and allegations contained in
Paragraph 3 of the Plaintiff's Complaint.

4. Paragraph 4 of the Plaintiff's Complaint sets forth a legal conclusion to
which no responsive pleading is required. However, to an extent a response is or may be
deemed required, the statements and allegations contained in Paragraph 4 of the
Plaintiff's Complaint are admitted.

RECEIVED

APR 17 2008

**JEFFERSON COUNTY
CIRCUIT COURT**

5. The Defendant denies the statements and allegations contained in Paragraph 5 of the Plaintiff's Complaint.

6. The Defendant lacks sufficient knowledge and information to either admit or deny the statements and allegations contained in Paragraph 6 of the Plaintiff's Complaint.

7. With regard to the statements and allegations contained in Paragraph 7 of the Plaintiff's Complaint, the Defendant admits that he was contacted to perform certain electrical work at the subject residence. To the extent the statements and allegations differ from or go beyond this specific admission, those allegations are denied.

8. The Defendant denies the statements and allegations contained in Paragraph 8 of the Plaintiff's Complaint.

9. The Defendant denies the statements and allegations contained in the first Paragraph 9 of the Plaintiff's Complaint.

9. The second Paragraph 9 of the Plaintiff's Complaint sets forth a legal conclusion to which no responsive pleading is required. To the extent a response is or may be deemed required, the Defendant denies the statements and allegations contained in the second Paragraph 9 of the Plaintiff's Complaint.

10. The Defendant denies the statements and allegations contained in Paragraph 10 of the Plaintiff's Complaint.

11. The Defendant denies the statements and allegations contained in Paragraph 11 of the Plaintiff's Complaint.

12. Paragraph 12 of the Plaintiff's Complaint sets forth a legal conclusion to which no responsive pleading is required. To the extent a response is or may be deemed

required, the Defendant denies the statements and allegations contained in Paragraph 12 of the Plaintiff's Complaint.

13. The Defendant denies the statements and allegations contained in Paragraph 13 of the Plaintiff's Complaint.

14. The Defendant denies the statements and allegations contained in Paragraph 14 and all of its subparts of the Plaintiff's Complaint

15. The Defendant denies the statements and allegations contained in Paragraph 15 of the Plaintiff's Complaint.

16. Upon information and belief, the Defendant admits the statements and allegations contained in Paragraph 16 of the Plaintiff's Complaint.

17. The Defendant lacks sufficient knowledge or information to either admit or deny the statements and allegations contained in Paragraph 17 of the Plaintiff's Complaint.

18. The Defendant denies the statements and allegations contained in Paragraph 18 of the Plaintiff's Complaint.

SECOND DEFENSE

The Defendant reserves his right to test the legal sufficiency of the Plaintiff's claims and, therefore, asserts that some or all of the allegations fail to state a cause of action upon which relief can be granted.

THIRD DEFENSE

The Defendant affirmatively asserts the defense of comparative contributory negligence.

FOURTH DEFENSE

The Defendant affirmatively asserts the negligence of David Bodkin or others not named as parties to this lawsuit are the proximate cause of the damages asserted in the Complaint and further that the actions or inactions of Donald Jenkins were not the proximate cause of said damages.

FIFTH DEFENSE

The Defendant affirmatively asserts that the Plaintiff has failed to join a person or persons required for adjudication of this matter.

SIXTH DEFENSE

The Defendant reserves unto itself those other such defenses enumerated by the West Virginia Rules of Civil Procedure including, but not limited to (1) lack of jurisdiction over subject matter; (2) lack of jurisdiction over the person; (3) insufficiency of process; and, (4) insufficiency of service of process, and reserves the rights to test these defenses as this case becomes more fully developed.

SEVENTH DEFENSE

The Defendant asserts that he did nothing to cause or contribute to the fire which damaged the subject property.

WHEREFORE, the Defendant, Donald Jenkins, having answered the allegations set forth in the Plaintiff's Complaint and having asserted his defenses thereto, respectfully requests that this Court:

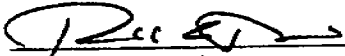
1. Dismiss the allegations against the Defendant, with prejudice;
2. Award the Defendant the cost of his defense, including attorney's fees if authorized by law; and,

April 17, 2008 Jefferson County

3. Grant such other and further relief as may be deemed just and proper.

THE DEFENDANT HEREBY DEMANDS TRIAL BY JURY

MARTIN & SEIBERT, L.C.



Ronald S. Rossi

W. Va. Bar # 7544

Martin & Seibert, L.C.

1453 Winchester Avenue

P.O. Box 1286

Martinsburg, WV 25405 (25402)

Telephone: (304) 267-8985

Fax: (304) 267-0731

April 17, 2008, Jefferson County

CERTIFICATE OF SERVICE

I, Ronald S. Rossi, Counsel for the Defendant, Donald, Jenkins, hereby certify that I served a true copy of the foregoing *Answer to Plaintiff's Complaint* upon the following individual, by placing the same in the U.S. Mail, First Class, postage prepaid, on this the 17th day of April, 2008.

**Lucien G. Lewin, Esquire
1250 Edwin Miller Boulevard
Post Office Box 2629
Martinsburg, WV 25402**



Ronald S. Rossi

April 17, 2008 Jefferson County

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JEFFERSON COUNTY
CIRCUIT COURT

MARTIN & SEIBERT, L.C.

ATTORNEYS AT LAW

Since 1908

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April 17, 2008

Patricia Noland, Clerk
Circuit Court of Jefferson County, WV
Judicial Center
110 N. George Street
P.O. Box 1234
Charles Town, WV 25414

RE: *Erie Insurance Property & Casualty Company v. Jenkins*
Civil Action No.: 08-C-97

Dear Ms. Noland:

Enclosed herewith please find a *Civil Case Information Statement* and *Answer to Plaintiff's Complaint* for filing in the above-captioned case. Should you have any questions, please feel free to contact me.

Very truly yours,

MARTIN & SEIBERT, L.C.

BY: 
Ronald S. Rossi

RSR/tlb

Enclosure, as stated

cc. Lucien G. Lewin, Esquire